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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,226	03/01/2005	Kenji Yamasaki	00005.001255	2521
5514	7590	07/24/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			ZUCKER, PAUL A	
			ART UNIT	PAPER NUMBER

1621

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/526,226

Applicant(s)

YAMASAKI ET AL.

Examiner

Paul A. Zucker

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Current Status

1. This action is responsive to Applicants' amendment of 09 May 2006.
2. Receipt and entry of Applicants' amendment is acknowledged.
3. Claims 1-8 are pending.
4. Claims 1-8 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Yamasaki et al (JP 2002-003462-A 01-2002, English translation). Yamasaki discloses (Paragraphs [0022]-[0024]) the reaction of lysine β -aminoethyl ester trihydrochloride with phosgene to produce a crude isocyanate which the Examiner presumes has the required APHA hue of 100 or more. The resulting crude triisocyanate is mixed with activated carbon (presumably initially at room temperature) followed by heating, filtration and distillation at reduced pressure in a thin-film molecular still to produce a triisocyanate product with a purity greater than or equal to 99% and an APHA hue of 20. The Examiner presumes that the lysine ester triisocyanate so-produced has the required color stability based on its method of production which essentially mirrors that instantly claimed and the fact that Yamasaki is silent with regard to any change in hue. Yamasaki therefore anticipates claims 1-8.

Examiner's Response to Applicants' Remarks with Regard to This Rejection

5. Applicants' have presented several arguments with regard to this rejection. The Examiner addresses these in turn below:

- a. Applicants assert that there is no basis for the Examiner's contention that Yamasaki initially contacts triisocyanate and activated carbon at room temperature since one of ordinary skill would understand that Yamasaki first heats the triisocyanate to 130°C and then adds the activated carbon. The Examiner disagrees and notes that Applicants have provided neither evidence nor argument in support of their position.
- b. Applicant argue that since the triisocyanate is distilled at a temperature of 50 to 120°C prior to carbon addition and Yamasaki does not teach cooling of the distillate then the temperature of the diisocyanate contacted with carbon must be at least 50 °C. This argument ignores the fact that the process of distillation, in fact, *requires* cooling of the distillate to temperatures well below those at which the distillation takes place in order to avoid the evaporative loss of distilled material.
- c. Applicants further argue (apparently against a potential 103 rejection) that it would not be obvious to modify a variable that is not recognized to be a result-effective variable. Applicants point out that the observation of increased stability of applicants' dissocyanate over that of Yamasaki constitutes an unexpected result. While the Examiner agrees with Applicants' assessment, he further points out that, insofar as it is presently claimed, Applicants' process remains indistinguishable from that disclosed by Yamasaki since Applicants' process is not limited to low temperature contact of lysine triisocyanate and activated carbon.

Applicant's arguments filed 09 May 2006 have been fully considered but they are not persuasive for the reasons set forth above.

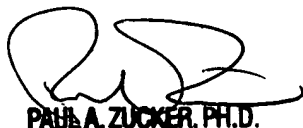
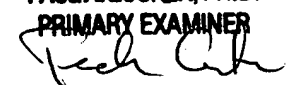
Conclusion

6. Claims 1-8 are pending. Claims 1-8 are finally rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Zucker whose telephone number is 571-272-0650. The examiner can normally be reached on Monday-Friday 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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PRIMARY EXAMINER
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